



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 549 DANSEY AVENUE INVESTMENTS LTD. and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC, FFL

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("Act") for:

- an Order of Possession for cause, pursuant to section 55; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The tenant did not attend this hearing, which lasted approximately 23 minutes. The landlord's two agents, landlord VV ("landlord") and "landlord JD," attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The landlord confirmed that she was the property manager and landlord JD confirmed she was the property administrator, both employed by the landlord company named in this application. Both the landlord and landlord JD stated that they had permission to represent the landlord company named in this application at this hearing. The landlord said that the landlord company owns the rental unit.

The landlord stated that the tenant was served with a copy of the landlord's application for dispute resolution hearing package on January 29, 2021, by way of registered mail. The landlord provided a Canada Post receipt and confirmed the tracking number verbally during the hearing. In accordance with sections 89 and 90 of the *Act*, I find that the tenant was deemed served with the landlord's application on February 3, 2021, five days after its registered mailing.

The landlord stated that the tenant was served with a copy of the landlord's One Month Notice to End Tenancy for Cause, dated January 6, 2021 ("1 Month Notice") on the same date, by way of posting to the tenant's rental unit door. The landlord provided a

signed, witnessed proof of service with this application. The landlord said that the two building managers served and witnessed the service. In accordance with sections 88 and 90 of the Act, I find that the tenant was deemed served with the landlord's 1 Month Notice on January 9, 2021, three days after its posting.

Issue to be Decided

Is the landlord entitled to an Order of Possession for cause?

Is the landlord entitled to recover the filing fee for this application?

Background and Evidence

While I have turned my mind to the landlord's documentary evidence and the testimony of the landlord, not all details of the respective submissions and arguments are reproduced here. The relevant and important aspects of the landlord's claims and my findings are set out below.

The landlord stated the following facts. This tenancy began on March 12, 2019. Monthly rent in the amount of \$1,300.00 is payable on the first day of each month. A security deposit of \$650.00 was paid by the tenant and the landlord continues to retain this deposit. The tenant continues to reside in the rental unit.

The landlord seeks an order of possession based on the 1 Month Notice. The landlord confirmed that the 1 Month Notice indicates an effective move-out date of February 28, 2021. The landlord said that the notice was issued for the following reasons:

- *Tenant or a person permitted on the property by the tenant has:*
 - *significantly interfered with or unreasonably disturbed another occupant or the landlord;*
- *Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.*

The landlord testified regarding the following facts. The earliest written complaint on file against the tenant was on December 2, 2019, regarding screaming and stomping. There have been multiple incidents involving the tenant since then. There were complaints made by other occupants to the landlord on December 14, 15, 16, and 23, regarding the tenant's loud noise. There were five complaints made to the landlord regarding screaming and stomping. Those occupants submitted recordings regarding

the noise made by the tenant. The police were called regarding violence at the rental unit. The tenant was given a final warning by the landlord on December 15, 2020, regarding a disturbance of quiet enjoyment and police being called. The landlord's building managers received a complaint from other occupants regarding the tenant stomping in the early morning on December 23, 2020. The tenant was served the 1 Month Notice on January 6, 2020.

Analysis

I am satisfied that the landlord issued the 1 Month Notice for a valid reason. I find that the tenant significantly interfered with and unreasonably disturbed other occupants and the landlord. I accept the landlord's testimony and evidence that the tenant screams and stomps loudly at the rental building, which disturbs the landlord and other occupants in the rental building. The landlord received numerous complaint letters from other occupants in the rental building and provided copies for this hearing. The police were called regarding loud noise and violence at the rental unit. The landlord gave the tenant a warning letter regarding the noise and provided a copy for this hearing. This behaviour has been ongoing from December 2019 to December 2020.

As I have found one of the reasons on the 1 Month Notice to be valid, I do not need to examine the other reason.

The tenant has not made an application pursuant to section 47(4) of the *Act* within ten days of receiving the 1 Month Notice. In accordance with section 47(5) of the *Act*, the failure of the tenant to take this action within ten days led to the end of this tenancy on February 28, 2021, the effective date on the 1 Month Notice. In this case, this required the tenant and anyone on the premises to vacate the premises by February 28, 2021.

As this has not occurred, I find that the landlord is entitled to an **order of possession effective at 1:00 p.m. on February 28, 2021**, pursuant to section 55 of the *Act*. I find that the landlord's 1 Month Notice complies with section 52 of the *Act*.

As the landlord was successful in this application, I find that the landlord is entitled to recover the \$100.00 filing fee from the tenant. I order the landlord to retain \$100.00 from the tenant's security deposit of \$650.00 in full satisfaction of the monetary award for the filing fee. The remainder of the tenant's security deposit of \$550.00 is to be dealt with at the end of this tenancy in accordance with section 38 of the *Act*.

Conclusion

The landlord's application is allowed. I grant an Order of Possession to the landlord **effective at 1:00 p.m. on February 28, 2021**. Should the tenant or anyone on the premises fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

I order the landlord to retain \$100.00 from the tenant's security deposit of \$650.00 in full satisfaction of the monetary award for the filing fee. The remainder of the tenant's security deposit of \$550.00 is to be dealt with at the end of this tenancy in accordance with section 38 of the *Act*.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: February 26, 2021

Residential Tenancy Branch